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## Nancy Schuldt and Paula Maccabee: PolyMet mine can't proceed as proposed

The EPA has erased any doubt that fears about the project are legitimate.

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Thousands of citizens, along with environmental groups and tribal cooperating agencies, have expressed concerns that the PolyMet mining project proposed in the Lake Superior watershed would create unacceptable harm to water quality, wetlands, endangered species, tribal resources, public lands and public funds. Many were also concerned about the adequacy of the draft environmental impact statement analyzing these issues.

Just weeks after the end of the public comment period, the U.S. Environmental Protection Agency validated our concerns. The EPA, an objective expert on environmental issues, rated the PolyMet NorthMet sulfide mine proposal as "environmentally unsatisfactory." It also

rated the impact statement "inadequate" in that the document is insufficient to assess impacts on the environment as required by federal law. These are two rarely given failing grades.

The EPA's acting regional administrator explained that the phrase "environmentally unsatisfactory" indicates that the review "has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed." In explaining the rating of "inadequate," the EPA said it "believes that the analyses of the hydrogeological profiles at both the mine and processing sites are inadequate to determine the full extent of impacts or to justify mitigation options. Consequently, we believe that the [impact statement] likely underestimates water quality impacts and that the project is likely to have additional unmitigated long-term discharges."

The agency emphasized harm to water quality, wetlands and public lands and the lack of financial assurance for the public:

- It determined that the project "will result in unacceptable and long-term water quality impacts, which include exceeding water quality standards, releasing unmitigated

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wastewater discharges to water bodies [during operation and in the postclosure period], and increasing mercury loadings into the Lake Superior watershed."

•It noted in particular that the project's proposed management plan for acid-generating waste rock and wastewater is "inadequate" and that "the proposed approaches to manage acid generation are untested or unproven at the proposed scale."

•It concluded that the impact statement "provides incomplete and inadequate compensation for the loss of wetlands and their function." The EPA also found that, by impairing over 1,000 acres of Lake Superior watershed wetlands, the project "may have substantial and unacceptable adverse impacts on aquatic resources of national importance."

•It found that the impact statement failed to identify or analyze any site that would be exchanged for the public lands taken for the mine site. Effects on forests, threatened and endangered species and tribal rights to this land were all inadequately addressed.

•It found that the tribal water quality standards and higher fish consumption rates of the Fond du Lac and Grand Portage bands

had not been considered, nor was there any discussion of how the tribal standards could be met. The EPA also recommended that the revised impact statement "evaluate and disclose impacts to all media collectively across the 1854 Ceded Territory as a whole."

•It criticized the statement for failing to provide information on financial assurance "critical to the decision-making process" and noted that without financial assurance a project can become "an unfunded or underfunded contaminated site that becomes a liability for the federal government and the public."

These are not trivial or partisan concerns. The EPA's recommendations may affect not only the timing of the PolyMet project and proposed mitigation, but also whether federal permits may even be issued. As the project stands and if water quality standards cannot be met, the EPA has stated that the agency "would not support the issuance of a permit for this project."

It is time for Minnesota regulators and the U. S. Army Corps of Engineers to listen to the concerns about this new type of mining in Minnesota.

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for the Fond du Lac Band of Lake Superior Chippewa. Paula Maccabee is attorney for WaterLegacy, an advocacy group based in Duluth.

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